

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES EARL GEORGE, )  
                        )  
Plaintiff,           )  
                        )  
v.                    )      **Case No. 1:20-CV-320**  
                        )  
MS. JERIT SMOCK, CHCA, et al, )  
                        )  
Defendants.         )

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on November 10, 2020. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff is an inmate incarcerated at the SCI Albion in Albion, Pennsylvania. Named as Defendants<sup>1</sup> are Physician's Assistant Daniel Stroup and Corectcare Solutions/Welpath Corporation, the group that provides medical services at the prison. The operative complaint in this matter is the Amended Complaint filed on March 17, 2021. ECF No. 33. Plaintiff alleges that Defendants violated his Eighth Amendment rights to be free from cruel and unusual punishment by providing him with inadequate medical treatment. He seeks damages for this alleged violation by way of 28 U.S.C. § 1983.

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<sup>1</sup> Two other Defendants named in this action, Jeri Smock and Michael Clark, have previously been dismissed from this action. See ECF No. 49.

Defendants filed a motion for summary judgment and Plaintiff filed a brief opposing the motion. ECF No. 69; ECF No. 73. Plaintiff did not respond to the Defendant's concise Statement of Material Facts as required by Local Rule 53.C.1.

On January 25, 2023, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that Defendants' motion for summary judgment be granted. Plaintiff filed Objections. ECF No. 78.

"If a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'" *EEOC v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) quoting 28 U.S.C. § 636(b)(1). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

Upon *de novo* review, the Court finds no error in Magistrate Judge Lanzillo's Report and Recommendation as Plaintiff's Objections are a reiteration of his opposition to the summary judgment motion. The Constitution mandates that inmates be provided with medical care. *See Estelle v. Gamble*, 429 U.S. 97 (1976). To meet his burden to show deliberate indifference to a serious medical need that rises to the level of an Eighth Amendment violation, an inmate must satisfy a "high threshold." *Anderson v. Bickell*, 2018 WL 5778241, at \*2 (3d Cir. 2018). The Eighth Amendment does not mandate medical treatment of an inmate's choosing; it only mandates that the inmate receive "some level of medical care." *Hensley v. Collins*, 2018 WL 4233021, at \*3 (W.D. Pa. 2018). The record in this case is replete with the medical care and

treatment that Plaintiff received during the relevant time frame. Accordingly, he has not met his burden and summary judgment is appropriate.

AND NOW, this 13th day of March 2023;

IT IS ORDERED that the motion for summary judgment [ECF No. 69] is granted.

IT IS FURTHER ORDERED that final judgment is entered in favor of Defendants Stroup and Correctcare Solutions/Welpath Corporation and against Plaintiff pursuant to Fed.R.Civ.P. 58.

AND, IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on January 25, 2023 [ECF No. 75] is adopted as the opinion of the court. The Clerk is directed to close this case.



SUSAN PARADISE BAXTER  
United States District Judge